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Directive 86-40: Non-Resident Taxpayers  
Massachusetts And U.S. Total Income Differences  
For Tax Year 1986

ISSUE: Why do the instructions of the non-resident income tax form (Form 1-NR) indicate that the amount of a non-resident's U.S. total income in Item 2 of the form (for tax year 1986) may not be the same as the amount the taxpayer enters in Item 14(f)

DISCUSSION: A non-resident taxpayer is required to provide U.S. total income on the Form 1-NR. In addition, the non-resident taxpayer must indicate on the form the sum of Massachusetts total 5% income, 10% income and the additional income that would have been reported as Massachusetts income had the taxpayer been a Massachusetts resident. Due to the differences between Massachusetts and federal tax laws, however, these two amounts may not be the same. For tax year 1986, these differences include:

Differences	Federal Tax Treatment	Mass. Tax Treatment
Social Security and Tier I Railroad Retirement Benefits	Taxable when income above certain level, I.R.C. § 86.	Exempt, G.L. c. 62, § 2(a)(2)(H).
Contributory retirement plans of the U.S., Massachusetts and other states which do not tax such income from Massachusetts	Taxable after contributions are recovered, I.R.C. § 402	Exempt, G.L. c. 62, §§ 2(a)(2)(E), 3B(4).
U.S. bond interest	Taxable, I.R.C. § 103.	Exempt, G.L. c. 62, § 2(a)(2)(A).
Bond interest from other states	Exempt, I.R.C. § 103.	Taxable, G.L. c. 62, § 2(a)(1)(A).
Foreign earned income	\$80,000 exempt, I.R.C. § 911.	Fully Taxable, G.L. c. 62, § 2(a)(1)(C).

Dividends	1 <sup>st</sup> \$100/200 exempt, I.R.C. § 116.	Fully taxable, G.L. c. 62, § 2(a)(1)(B).
IRA distributions	Taxable, I.R.C. § 408(d).	Taxable after contributions are recovered, G.L. c. 62, § 2(a)(2)(F).
Voluntary § 403(b) annuity contributions	Exempt, I.R.C. § 403(b).	Taxable, G.L. c. 62, § 2(a)(1)(D).
Long term capital gain deduction	60%, I.R.C. § 1202.	50%, G.L. c. 62, § 2(c)(3).
State tax refunds	Taxable to itemizers, I.R.C. § 111.	Exempt (no prior deduction under G.L. c. 62, § 2(d)).
Net operating loss carry forward	Deduction allowed, I.R.C. § 172.	Deduction disallowed, G.L. c. 62, § 2(d)(6).

*Additional Difference for Shareholders of Electing S Corporations*

There will also be a difference for shareholders of an S corporation which elects under the transition rule in section 72 of chapter 488 of the acts of 1986 to be taxed under the laws in effect prior to the Massachusetts adoption of federal S corporation treatment. This difference is:

Income from an S corporation	Undistributed income taxable, I.R.C. § 1366.	Actual distributions taxable, G.L. c. 62, § 2(a)(1)(E) (1973) (amended 1986).
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DIRECTIVE: The above differences often result in a discrepancy between a non-resident taxpayer's U.S. total income and the sum of total 5% income, 10% income and the additional income that would have been reported as Massachusetts income had the taxpayer been a Massachusetts resident. Thus, the amount of U.S. total income in Item 2 of the Form 1-NR may not be the same as the amount in Item 14(f). DOR-D 86-19 is modified and superseded.

31 December 1986

/s/Ira A. Jackson

Ira A. Jackson  
Commissioner of Revenue

This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 C.M.R. § 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.

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